

THE DISTRICT OF COLUMBIA

BEFORE

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:)
)
Robert Johnson) OEA Matter No. 1601-0051-06A09C10
Employee)
) Date of Issuance: October 1, 2010
v.)
) Senior Administrative Judge
District of Columbia Fire &) Joseph E. Lim, Esq.
Emergency Medical Services Department)
Agency)
_____)
Thelma Chichester, Esq., Agency representative
Clarissa T. Edwards, Esq., Employee representative
Frederick Schwartz, Esq., Employee representative

ADDENDUM DECISION ON COMPLIANCE ON ATTORNEY FEES

PROCEDURAL BACKGROUND

On November 28, 2005, Employee, a Paramedic, DS-0699, Grade 9, filed a Petition for Appeal with the D.C. Office of Employee Appeals (the “Office”), challenging his 20-day suspension for “failure to follow orders.”

Judge Lois Hochhauser held a hearing on June 2 and July 5, 2006. On February 12, 2007, Judge Hochhauser issued an Initial Decision (ID) in which she found that Agency did not meet its burden of proof in proving cause to discipline Employee on a charge of insubordination, and therefore ordered Agency to reinstate Employee to his position of record with all back pay and benefits due him. Agency appealed, but on May 6, 2009, the Office Board upheld the Initial Decision in an Opinion and Order on Petition for Review.

On June 1, 2009, Employee, through his second attorney¹, Frederic Schwartz, Jr., submitted a Motion for Attorney Fees and Costs in the amount of \$16,065.00, pursuant to OEA Rule 635.1.² On August 13, 2009, Employee’s first attorney, Clarissa Edwards, submitted a Motion for Attorney Fees in the amount of \$5,532.14. This Matter was reassigned to me on October 16, 2009. After

¹ Employee’s first attorney, Ms. Edwards, initially represented him in the initial phases of his appeal. Mr. Schwartz replaced Ms. Edwards in the latter stages of this appeal.

² OEA Rule 635.1, 46 D.C. Reg. 9320 (1999). Reads as follows: “An employee shall be entitled to an award of reasonable attorney fees, if: (a) He or she is a prevailing party; and (b) The award is warranted in the interest of justice.”

several postponements by the parties, I held a status conference on January 20, 2010. The record was closed after Agency submitted its response to Employee's motion while Employee submitted his counter-response. On February 19, 2010, I awarded \$5,532.14 to Attorney Edward, and \$5,142.50 to Attorney Schwartz for a total fee award of \$10,674.64 in attorney fees and costs.

On May 3, 2010, Employee's Attorney Edwards submitted a Motion to Compel and for Sanctions, complaining that Agency has failed to pay the ordered attorney's fees. I ordered Agency to explain why it has not paid Employee's attorney fees. On July 30, 2010, Employee's Attorney Edwards indicated that Agency has paid the attorney fees.

JURISDICTION

The Office has jurisdiction pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether the motion for compliance should be dismissed.

ANALYSIS AND CONCLUSION

Since the agency has complied with this Office's decision, Employee's motion for compliance is dismissed.

ORDER

It is hereby ORDERED that the motion for enforcement in this matter is dismissed.

FOR THE OFFICE:

JOSEPH E. LIM, Esq.
Senior Administrative Judge